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ABSTRACT

For 5 years, Ramah Navajo High School (New Mexico) has researched, produced, and taught a bilingual bicultural law-related-curriculum that emphasizes the pluralistic legal environment in which Navajo students exist. The resulting 4-unit law-related curriculum is compiled from anthropological field data gathered by local legal specialists working with a consulting attorney and is an introduction to law ways, customary as well as formal, that are important as Navajo people meet the problems of contemporary everyday life. The case method is utilized, setting forth disputes, and illustrating how parties to disputes define problems and resolve them. Students participate in bilingual "moot courts" representing both cultures; utilize a bilingual dictionary compiled by the local legal and language specialists; view video tapes of tribal judges, prosecutors, and other legal officers familiar with local disputes; and students then evaluate the program through their comprehension of Anglo American legal concepts expressed in local language (Navaho and English), which is then reviewed by local advocates. Staff development involves training of: legal specialists in field study techniques to develop materials for the classroom; local advocates to give appropriate presentations in the classroom; and parent teachers to assist in classroom preparation, presentation, and evaluation. (AH)

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BILINGUAL/BICULTURAL LAW-RELATED CURRICULUM

AT

PINE HILL HIGH SCHOOL

November 1975

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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BILINGUAL/BICULTURAL LAW-RELATED CURRICULUM

AT

RAMAH NAVAJO HIGH SCHOOL

- Introduction -

For 5 years, Ramah Navajo High School has researched, produced and taught a Bilingual bicultural law-related-curriculum that emphasized the pluralistic legal environment in which Navajo students exist. These students are members of the Navajo Nation as well as American citizens. They are affected by their own Navajo law ways, and by local, state and federal laws.

The Ramah Navajo community has tried relating its own ideas about behavior and ways of problem solving to those of the dominant Anglo society. Navajo judicial officials and Anglo attornies have attempted to codify Navajo law-ways.

Navajo students realize that both Navajo and Anglo law ways are relevant and worthy of regard. Navajo high school students are very different from Navajo adults reared in a traditional environment. As these students gain increasing understanding of both Navajo and Anglo concepts of law (especially dispute resolution) they can understand both, with increasing respect for the Navajo way. They will ask, "What works best for my People?" They will become involved in changing institutions and alien ways of dispute-resolution that do not work for the Navajo People.

The Ramah Navajo High School bilingual bicultural law-related-curriculum is an introduction to the law ways, customary as well as formal, that are important as the Navajo People meet the problems of comtemporary everyday life units on Consumer problems deal both with legal definitions

of the rights and duties in a contractual relationship, and also with Navajo ideas about rights and duties in agreements of exchanges of livestock, goods, land, etc.

Units on Marriage explore the Navajo concepts of the rights and responsibilities of the husband and wife and compare these to the definitions imposed by state and tribal codes written by non-Navajo attorneys.

Informal Navajo ways of dispute resolution are compared to Anglo methods of dispute resolution. The students participate in "moot courts" that pay equal attention to customary and to formal methods.

I Content Areas

A. Consumer Education

This area embodies elements of the laws of contracts and torts. The students, as consumers, learn how to deal with specific problem situations familiar to them and their families:

1. Goals
   a. To give the students a firm understanding of the Navajo People's traditional views of property, and to compare these to Anglo views, so that the students may act as sophisticated consumers in their own behalf and so that they may work with their parents for the future economic development of their Navajo communities.
   b. To give the students a firm grasp of bargaining, contracting, and informal dispute resolution techniques so that they can use these in dealing with traders and car dealers without the aide of lawyers.
   c. To show how the state and tribal courts can be used to get consumer protection in individual disputss.
   d. To show how to use political strategies and community organization techniques to change legal and economic relationships with traders and csr dealers in order to secure consumer protection for the Navajo People.
2. Problem situations
   a. Navajo versus traders in various aituations involving this monopolistic institution in the rural areas of Navajo land.

b. Navajo versus car dealers add town merchants. Within each relationship, there are specific elements that have their basis in both Anglo and traditional concepts of property. Chief among these are: -Making of the contract - the bargaining experience. -Money management - getting credit, understanding secured property, paying interest for credit. -Dealing with disputes over fraud, shoddy goods, and other contract areas. Warrantees, guarantees. -Insurance.

3. Teaching strategies

Classes deal with specific disputes and encounters. Students are encouraged to identify with these situations by techniques such as role playing:

a. The class divides into small groups. Each group selects someone to go to a "trader" to pawn a necklace. Attempts by the trader to cheat the "consumer" are noted by the students. The trader speaks pidgin Navajo. A "car dealer" attempts to sell a "lemon", or have a student sign a blank contract. The students decide whether the "consumer" asks the correct questions or is misled. The students then discuss these encounters. Disputes resolution is learned as students work out property disputes before a "judge" or a "traditional" conciliator" in Navajo and in English.

b. Volume I of a 4-volume casebook, based on Navajo experience, deals with typical consumer problems and personal property disputes, and shows how these problems are presented in

tribal and state courts and how they are resolved. Commentaries and discussion questions guide the students and teachers. These cases provide materials for role playing situations.

c. Class participation in real community events is a third teaching strategy in consumer education:

i. Development of consumer cooperatives.

ii. Use of a local credit union by class members.

These projects involve participation with Navajo people from other parts of the Reservation who have worked on cooperatives, as well as expert help from local banks, CUNA representatives, and DNA (Navajo legal aid). As students evaluate their own roles and those of the dispute resolvers, discussion follows:

i. What is law, and what is a legal system?

-Traditional Navajo law-ways and customs.

-Tribal sovereignty and jurisdiction.

-State and Federal governments and the authority of their laws for Navajo people per the treaty of 1868.

ii. Types of Law

-Custon and culture: Traditional law

-Case law: The Anglo law codes

-Statutory: How laws are made

-Civil and criminal law

iii. How problems are solved in courts and in traditional ways.

-Traditional ways of resolving disputes.

-The roles of the informal dispute resolvers (clan leader, headman, or legal leader).

-The court systems.

-Federal, State, Tribal

-The roles of judge and jury.

-The roles of the lawyer and the lay advocats.

B. Law and the Family

The focus is upon property (both real and personal) and how it is used and transmitted within the Navajo family. The rights and responsibilities of the husband, wife and children in the clan and the extended matrilineal family are the focal points of Navajo law. They continue to be important as they conflict or agree with the Anglo law's definitions of Family rights and duties. The Navajo student must understand how the law of Navajo society, of the state, and of the nation define how he is expected to relate to his family and clan in the Ramah Navajo community.

Subtopics are:

1. Marriage; Property disputes; Sheep grazing permits; Land use.
2. Children: Their rights and duties.
3. Death is the family: Inheritance and the law.

The chief objective is to reorient the student to his family through both traditional and formal systems of law. The difference between the written tribal code and traditional ideas of family rights and responsibilities are very confusing to young Navajos. The destruction of parental authority by boarding schools has created a gap that locally-controlled schools are only beginning to fill as parents reassume disciplinary responsibility for their youngsters. Parent-Teachers play an important role in the classroom, as they are the experts who explain traditional Navajo laws in these areas.

C. Law and the Community

In the past, the Navajo People had special rules for dealing with the events that lead to injuries by or of other Navajos who were not their relatives. These rules of compensation (Naalyeeh) are like the private remedies in tort and criminal procedure as implemented through the tribal courts of today. The curriculum deals with the problems of obtaining justice in the tribal courts in cases where personal injury or property damage have occurred.

1. Topics

   a. Getting relief: In the past the court system on the Navajo reservation emphasized public sanctions and not ways that the courts could secure private damages for people with problems. Only recently has representation in tribal court for private actions become available. Confusion about how the court can be used, and, especially, when the court will help individuals and when the court will help individuals and when it will act on behalf of the tribe to punish wrongdoers is still widespread among both adults and young people.

      With a focus on property damage and personal injuries, the curriculum explains how legal institutions relate to both Navajo and Anglo methods of problem solving outside of the family. The curriculum prepares students to help their parents and themselves get the help they need from the courts.

   b. The rights of defendants. The second objective is to explain what students should do if arrested or served with

a civil process in the tribal or state courts.

c. The rights of students: The third objectives is to consider the rights and responsibilities of students. This allows students to act outsituations that are of immediate concern to them.

2. Teaching strategies: The most difficult concepts of Anglo legal tradition (negligence, criminal intent, right against self-incrimination) have been incorporated into the tribal court system. But because these concepts are not interpreted through traditional means of righting injuries the student and his parents have difficulty securing justice in the tribal courts.

The roles of participants in the judicial process and the meanings of the terms used in cases are explored through both role playing and the casebook approach.

We concentrate on projects that allow students to make their own rules of conduct in their own schools. The process of making and enforcing laws is taught as the students draft and revise this code, the primary issues of due process and constitutional guarantees gain immediate relevance to them.

II. Curriculum Development

A. Preparatory: The initial work of the legal staff is to collect field data for the curridulum.

1. The local legal specialist working with the consulting attorney:

   a. Brings together existing materials on traditional ways ways of dispute resolution.

   b. Develops tools to accurately determine definitions and norms held relevant by the local people.

   c. Interviews community leaders and legal service perconnel with experience in the local area to compile specific cases of disputes that illustrate both conclicts and comformity of traditional local law ways and Anglo law.

   d. Reviews tribal court records to compile actual cases for inclusion in the curriculum.

Participation in the preliminary stage are: A consulting attorney a local legal specialist, and the curriculum development specialist who helps to tailor the field study data to the immediate needs of the classroom.

The compilation of field research data and information from those active in dispute-resolution will lead to a second stage:

A. Materials gathered on local law ways are combined with basic materials gathered from Anglo common law. This includes presentations on how laws guide the many day-to-day events that occur when a dispute is placed into the local or Anglo dispute resolution process.

B. Specific materials include:

1. 4-volume text that utilizes the case method, setting forth disputes, and commenting on how the parties to the disputes define the problems and resolve them. This text's supplemented by a series of videotypes, both in Navajo and English, that deal with specific topics.
2. Materials produced by DNA (Navajo legal Aid) and other outside sources.
3. Materials compiled from books, magazines, newspapers, etc. Relevant to the bilingual bicultural law-related curriculum.
4. Role-Playing, including participation in "mootcourt" presentations in both Anglo and traditional contexts. Preparation for this stage of learning takes place after the class has had an opportunity to attend trials and customary dispute resolutions procedures, and after discussion of courtroom set-up, procedures, evidence, and the like.
5. The local legal specialist andthe local language specialist develop a bilingual legal dictionary to be used as a teaching supplement.
6. The curriculum development specialist develops AV Teacher Aids: Videotapes, filmstrips, Movies and Audio Cassetts.

C. The use of outside resources:

1. Published and unpublished anthropological resources are used in the comparative legal approach.
2. Tribal judges, prosecutors, and other legal officers familiar with local disputes are interviewed during the field work. They are asked to make video tapes of discussions of their jobs

and the workings of their institutions.

D. Evaluation

Comprehension of legal ideas will be evaluated by taped discussions with groups of students and local advocates.

In these discussions, the students will be asked to evaluate classroom procedures. Their comprehension of Anglo--American legal concepts expressed in the local language are reviewed by local advocates.

Their progress in understanding how to cope with disputes in each subject area is reviewed through discussion of how cases might be resolved.

E. Staff development: Staff development involves three distinct phases:

1. Training of the legal specialist in field study techniques to develop materials for use in the classroom.
2. Training of local advocates to give appropriate presentations in the classroom.
3. Training of parent teachers to assist in classroom preparation, presentations, and evaluation.